

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

RODNEY B. ALLEN, #28935-077)	
Movant-Defendant,)	
vs.)	No. 3:96-CR-256-K
)	
UNITED STATES OF AMERICA,)	
Respondent-Plaintiff.)	

ORDER ACCEPTING FINDINGS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE

After reviewing all relevant matters of record in this case, including the Findings, Conclusions, and Recommendation of the United States Magistrate Judge and any objections thereto, in accordance with 28 U.S.C. § 636(b)(1), the Court is of the opinion that the Findings and Conclusions of the Magistrate Judge are correct and they are accepted as the Findings and Conclusions of the Court. Movant's Objections filed on June 2, 2015 are **OVERRULED**.

For the reasons stated in the Findings, Conclusions, and Recommendation of the United States Magistrate Judge, the post-judgment motion for relief from judgment is **CONSTRUED** as a successive motion to vacate under 28 U.S.C. § 2255 that should be **TRANSFERRED** to the United States Court of Appeals for the Fifth Circuit pursuant to *Henderson v. Haro*, 282 F.3d 862, 864 (5th Cir. 2002) and *In re Epps*, 127 F.3d 364, 365 (5th Cir. 1997).

The Clerk of the Court is **DIRECTED** to (1) terminate the post-judgment motion in this criminal case; (2) open a new habeas case for administrative purposes only; (3)

file the post-judgment motion as a § 2255 motion to vacate filed April 28, 2015 in that new case; (4) directly assign the new case to the same District Judge and Magistrate Judge as in this case; (5) file a copy of the Findings, Conclusions, and Recommendation of the United States Magistrate Judge, defendant's objections, and the order accepting those Findings, Conclusions, and Recommendation, and the judgment in that new case; and (6) and without further judicial action, immediately **TRANSFER** the newly opened § 2255 action to the United States Court of Appeals for the Fifth Circuit.

Movant's Motion for Extension of Time and Motion for Appointment of Counsel, both filed on June 2, 2015, are hereby **DENIED**.

In the event that the movant files a notice of appeal, he is informed that he must pay the \$505.00 appellate filing fee or submit a motion to proceed *in forma pauperis* that is accompanied by a properly signed certificate of inmate trust account.

SO ORDERED.

Signed June 18th, 2015.

A handwritten signature in cursive script, reading "Ed Kinkeade", written in black ink.

ED KINKEADE
UNITED STATES DISTRICT JUDGE